

HOUSE BILL 3913
By Crider

AN ACT to amend Tennessee Code Annotated, Title 2,
Chapter 1 and Title 2, Chapter 19, relative to
enacting the "Truth in Campaigning Act".

WHEREAS, recent elections across this state have unfortunately become more negative in their tone, focusing less on the issues of the day and more on personal attacks of the candidates;

WHEREAS, the people of Tennessee are tired of seeing and hearing campaign advertisements and tactics that are designed to smear a candidate rather than to explain ideas of how a candidate intends to govern;

WHEREAS, the people of Tennessee should be entitled to make informed decisions in voting by having contested elections that are of substance;

WHEREAS, the Tennessee general assembly understands that the United States Supreme Court has held that political speech is our most protected form of speech, but also understands that certain efforts can be taken to regulate the election process; now, therefore,
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act may be known as the "Truth in Campaigning Act".

SECTION 2. Tennessee Code Annotated, Section 2-19-142, is amended by designating the existing language as subsection (a) and by adding the following new subsection:

(b)

(1) If a person, corporation, organization, entity, or committee publishes, broadcasts, or distributes, or causes to be published, broadcast or distributed any false and defamatory campaign literature or political advertisement relating to the conduct, fitness, or record of any candidate for public office with

knowledge of the falsity or with reckless disregard of the truth or falsehood, then such person, corporation, organization, entity, or committee shall be liable upon proof by clear and convincing evidence for damages in a defamation action brought by such candidate.

(2) Such damages shall include compensatory damages and punitive damages in such amount as the court may allow.

(3) In any action brought pursuant to this subsection, the court may award reasonable attorney's fees and costs to the prevailing party.

SECTION 3. Tennessee Code Annotated, Title 2, Chapter 1, Part 1, is amended by adding the following new section:

Section 2-1-118.

(a) When an individual files a nominating petition with the appropriate office indicating such individual's candidacy for a particular office in the state, the election coordinator or county registrar-at-large shall give the candidate a copy of the code of fair campaign practices for such candidate's review. Signing the code and adhering to its guidelines are voluntary, and the election coordinator or county registrar-at-large shall so inform each candidate. If a candidate signs the code, the candidate shall file a copy of the signed form within five (5) days of signing, with the election coordinator or county registrar-at-large. The election coordinator or county registrar-at-large shall maintain such copy on file until thirty (30) days after the election.

(b) If a candidate signs the code, such candidate's campaign literature may include a statement of such candidate's compliance with the code.

(c) The secretary of state shall print and distribute the code of fair campaign practices, which shall read as follows:

CODE OF FAIR CAMPAIGN PRACTICES

There are basic principles of decency, honesty, and fair play which every candidate for public office in the State of Tennessee has a moral obligation to observe and uphold in order for the people of this state to exercise their constitutional right to vote in a free and informed way. In order to meet that objective, I _____, being a candidate for the office of _____, agree to the following campaign guidelines:

(1) I will conduct my campaign openly and publicly, discussing the issues as I see them, presenting my record and my policies with sincerity and frankness, and limit my attacks on my opponents to only legitimate challenges to his or her record and policies.

(2) I will not use or permit the use of character defamation, whispering campaigns, libel, slander, or scurrilous attacks on any candidate or his or her personal or family life.

(3) I will not use or permit any appeals to negative prejudice based upon race, sex, religion, national origin, physical health status, or age.

(4) I will not use campaign material of any sort which misrepresents, distorts, or otherwise falsifies the facts, nor will I use malicious or unfounded accusations which aim at creating or exploiting doubts, without justification, as to the personal integrity or patriotism of my opposition.

(5) I will avoid demeaning references to my opponent and demeaning visual images of my opponent.

(6) I will not use or permit any dishonest or unethical practices which tend to corrupt or undermine our American system of free

elections, or which hampers or prevents the full and free expression of the will of the voters.

(7) I will defend and uphold the right of every qualified American voter to fully and equally participate in the electoral process.

(8) I will not coerce election help or campaign contributions for myself or for any other candidate from my employees.

(9) I will immediately and publicly repudiate support deriving from any individual or group which resorts, on behalf of my candidacy or in opposition to that of my opponent, to the methods and tactics which I condemn. I shall accept responsibility to take firm action against any subordinate who violates any provisions of this code or the laws governing elections.

I, the undersigned candidate for election to public office in the State of Tennessee or chairman of a political committee in support of or in opposition to a question of public policy, hereby voluntarily endorse, subscribe to, and solemnly pledge myself to conduct my campaign in accordance with the above principles and practices.

Signature

Date

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 5. This act shall take effect July 1, 2005, the public welfare requiring it.